

# SENATE BILL REPORT

## ESSB 5142

---

---

As Passed Senate, February 22, 2023

**Title:** An act relating to creating an account for the pharmaceutical rebate revenue generated by the purchase of medications for people living with HIV who are enrolled in the early intervention program.

**Brief Description:** Creating an account for the pharmaceutical rebate revenue generated by the purchase of medications for people living with HIV who are enrolled in the early intervention program.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Liias, Rivers, Dhingra, Kauffman, Nobles, Trudeau, Valdez, Wilson, C. and Wilson, J.; by request of Department of Health).

**Brief History:**

**Committee Activity:** Health & Long Term Care: 1/17/23, 1/19/23 [DP-WM].

Ways & Means: 1/30/23, 2/07/23 [DPS].

**Floor Activity:** Passed Senate: 2/22/23, 49-0.

**Brief Summary of Engrossed First Substitute Bill**

- Creates an account for the pharmaceutical rebate revenue generated by the purchase of medications for people living with HIV who are enrolled in the Department of Health early intervention program.

---

### SENATE COMMITTEE ON HEALTH & LONG TERM CARE

**Majority Report:** Do pass and be referred to Committee on Ways & Means.

Signed by Senators Cleveland, Chair; Robinson, Vice Chair; Rivers, Ranking Member; Muzzall, Assistant Ranking Member; Conway, Dhingra, Holy, Padden, Randall and Van De Wege.

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Greg Attanasio (786-7410)

---

## SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 5142 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rolfes, Chair; Robinson, Vice Chair, Operating & Revenue; Mullet, Vice Chair, Capital; Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Warnick, Assistant Ranking Member, Capital; Billig, Boehnke, Braun, Conway, Dhingra, Hasegawa, Hunt, Keiser, Muzzall, Nguyen, Pedersen, Saldaña, Torres, Van De Wege, Wagoner and Wellman.

**Staff:** Monica Fontaine (786-7341)

**Background:** The Ryan White HIV/AIDS Grant Program, operated by the U.S. Department of Health and Human Services Health Resources and Services Administration, provides grants to cities, states, counties, and community-based groups to help low-income people with HIV. Grant funding can be used to provide care, medication, and essential support services. The Department of Health (DOH) receives grant funding to operate the Early Intervention Program (EIP), which has 4200 people enrolled. EIP provides the following services to help eligible people with HIV:

- payment for certain HIV-related prescription medications—for clients with insurance, EIP may pay what insurance does not for formulary-covered medications;
- client assistance to get an identification number and a pharmacy card—clients can present these to a contracting pharmacy to get their medications, in most cases for a small monthly fee;
- assistance in acquiring insurance and Medicaid eligibility; and
- assistance with insurance premium payments and co-pays on HIV-related medications and office services.

Because EIP funds medications, Washington receives rebate money from pharmaceutical companies in addition to grant funds. The grant requires that rebates be spent on the program. Currently, rebate funds are put into the general fund. The projected rebate revenue is \$130 million for the 2023-25 biennium.

**Summary of Engrossed First Substitute Bill:** A non-appropriated medication rebate revenue account is created in the custody of the state treasury. The EIP must deposit any receipts from pharmaceutical rebates generated by the purchase of medications for any person enrolled in the EIP into the account. The expenditures may only be used for services defined in the grant award from the Ryan White HIV/AIDS Grant Program and only the Secretary of Health or the secretary's designee may authorize expenditures from the account.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 2023.

**Staff Summary of Public Testimony on Original Bill (Health & Long Term Care):**

PRO: This bill provides another mechanism to help treat patients with HIV and AIDS prevention work. Currently, DOH is unable to spend all rebate revenue on the EIP as the federal grant requires because of state regulations on spending authority limits. The creation of a dedicated account will address this issue and increase the amount of funds available to the program without requiring DOH to ask the Legislature for additional spending authority each year.

**Persons Testifying (Health & Long Term Care):** PRO: Senator Marko Liias, Prime Sponsor; Elizabeth Crutsinger-Perry, Washington State Department of Health; Katherine Mahoney, Virginia Mason Franciscan Health.

**Persons Signed In To Testify But Not Testifying (Health & Long Term Care):** No one.

**Staff Summary of Public Testimony on Original Bill (Ways & Means):** *The committee recommended a different version of the bill than what was heard.*

PRO: The bill provides DOH with the ability to spend all rebate revenue through the EIP, which is required by the grant program. This will allow the department to spend revenue as earned without needing to seek additional spending authority each year.

**Persons Testifying (Ways & Means):** PRO: Elizabeth Crutsinger-Perry, Washington State Department of Health.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.